



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 29, 1994

Mr. James R. Lindley
General Counsel
Central Texas College
P.O. Box 1800
Killeen, Texas 76540-9990

OR94-504

Dear Mr. Lindley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 21558.

Central Texas College received an open records request asking for records and reports pertaining to a college employee. The documents you have submitted for review are contained in the employee's personnel file. You are seeking to withhold the documents under section 552.102(a) the Government Code (formerly section 3(a)(2), V.T.C.S. article 6252-17a).

We conclude that a portion of one document you submitted for review is excepted from disclosure by section 552.102(a). Section 552.102(a), in pertinent part, excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." This section protects information in a personnel file only if its release would invade the privacy of the employee under the test articulated for common-law privacy. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Information that identifies an employee's beneficiary is information that meets this test. Open Records Decision

¹The 73rd Legislature codified the Open Records Act as chapter 552 of the Government Code and repealed article 6252-17a, V.T.C.S. See Acts 1993, 73d Leg., ch. 268, §§ 1, 46. The codification of the Open Records Act in the Government Code is a nonsubstantive codification. *Id.* § 47.

No. 600 (1992) at 10. Therefore, you must withhold under section 552.102(a) the information we marked on the document entitled "Designation of Beneficiary." However, you may not withhold under section 552.102(a) any of the other information you submitted for review.

We also conclude that the W-4 form you submitted for review is excepted from disclosure by section 552.101.² Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." In previous decisions, this office has concluded that section 6103 of the Internal Revenue Code renders W-4 forms confidential under federal law. Open Records Decision No. 600 at 9; Attorney General Opinion MW-372 (1981) at 1. Therefore, you must withhold the W-4 form under section 552.101.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/LRD/rho

Ref.: ID# 21558

Enclosures: Marked documents

cc: Mr. John R. Mendes
CW2, II - CI OPS Officer
Department of the Army
163D Military Intelligence Battalion
Fort Hood, Texas 76544-5076
(w/o enclosures)

²Even though you did not raise this exception in your request, this office is required to consider whether any of the information you presented for review is confidential. See Open Records Decision No. 344 (1982) at 2.